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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,834	11/24/2003	Andrew E. Neubauer	KCX-668 (19385)	4749
22827	7590	02/15/2006	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			GIBSON, KESHIA L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,834

Applicant(s)

NEUBAUER ET AL.

Examiner

Keshia Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 43-60 is/are pending in the application.
- 4a) Of the above claim(s) 43-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-10, 12, 13, 15, 16 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 4-6, 11, 14, 17, 18 is/are objected to.
- 8) ☒ Claim(s) 1-43 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 8/17/05 have been fully considered but they are not persuasive.

Applicant has argued that Mesek does not teach any openings in the absorbent structure and also does not disclose at least one rear opening. However, an "opening" is "a gap," "an empty space in or between two things," or "a vacant or unobstructed man-made space" (also see attached definitions). The middle opening previously identified by the Examiner is a gap that exists between edges 130 of the panel which are created when the absorbent structure 114 is cut to form flaps, which are folded over the center portion of the structure. As such, the areas M previously defined by the Examiner are still considered to be openings. Furthermore, based on application's disclosure, Mesek's openings are analogous to Applicant's openings, which are present on the outer edges of the absorbent structure. Additionally, the Examiner has determined "middle opening" and "rear opening" to related to the location of the opening within the absorbent structure. Thus the "middle opening" has been considered to be a portion of an opening extending within the middle region of the article and a "rear opening" has been considered to be a portion of an opening extending within the rear portion of the absorbent structure. As such, Examiner still considers the previously defined rear and middle openings to anticipate the invention as claimed.

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2. Despite applicant's arguments, Mesek is still considered to anticipate and/or render obvious the structural limitations set forth in Claims 1-21 of the claimed invention, as presented in the previous Office Action.

Specification

3. The following objection is maintained: The disclosure is objected to because of the following informalities: In the section of "Brief Description of Figures," Fig. 3 is listed as being a plan view of the absorbent article in Fig. 2 in an unfolded state; however, the Fig. 3 does not appear to be a diaper in an unfolded state. Appropriate correction is required.

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 7-10, 12-13, 15-16 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Mesek (US 4,670,111).

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In regard to Claim 1, Mesek discloses an absorbent article 10, 110 comprising an outer cover 16, 116, a liner 12, 112, and an absorbent structure 14, 114. The absorbent structure further comprises a front portion 22, 122, a middle portion 24, 124, a rear portion 20, 120, a pair of opposing lateral flaps F, a pair of opposing middle openings (marked M in Fig. A below) spaced between the middle portion and the (outer portions of) the lateral flaps F, and a least one rear opening (marked R in Fig. A below) (Figs. 2, 4-6; column 7, lines 5-47). The folded portions 26/126 of lateral flaps F have been folded onto at least the middle region 24, 124 (Figs. 2 and 6). The middle portion 24, 124 has a width narrower than the width of the front portion 22, 122 due to the location of the pair of opposing middle openings M (see Figs. 2, 4-6, Fig. A). The folded portions 26, 126 of the flaps F create a two-layer structure in the middle portion 24, 124 (Figs. 2, 4-6; column 7, lines 27-38).

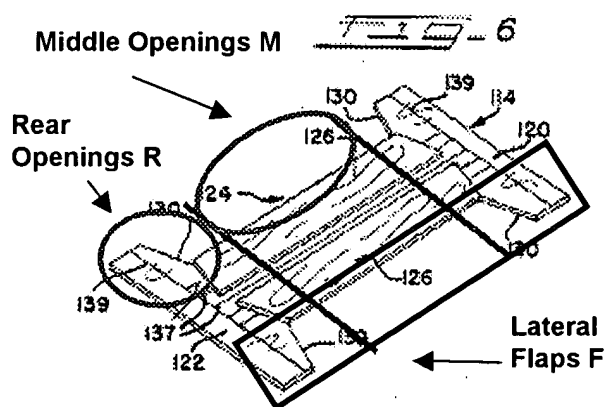


Fig. A: Examiner's mark-up of Merek's Fig. 6.

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In regard to Claim 2, Mesek discloses that the middle portion 24, 124 includes a plurality of thicknesses, or layers, to provide increased absorptive capacity to the crotch region (column 7, lines 27-31). As further depicted in Fig. 6, the folded portions 26, 126 result in the absorbent structure 14, 114 being two layers thick. In Fig. 4, the folded portion result in the absorbent structure 14, 114 being three layers thick. From Figs. 2 and 5-6, it can be seen that the front 22, 122 and rear portions of the absorbent structure 14, 114 are only one layer thick. Therefore, Mesek discloses that the folded portions 26/126 create a basis weight (analogous to thickness) in the location of the middle portion 24, 124 that is at least twice the basis weight of the areas of the rear portion 20, 120.

In regard to Claim 3, Mesek discloses that these edges 30, 130 cooperate in the folding of the folded portions 26, 126 to create an overall hourglass shape for the absorbent structure 14, 114 (Figs. 1-2 and 5-6). Mesek further discloses that these edges 30, 130 may be curved (column 7, line 41). A curved edge would inherently comprise a concave edge and a convex edge (whether designated as inner or outer). Thus, Mesek discloses that the absorbent structure 14, 114 has an inner concave edge or an outer convex edge that cooperate when the folded portions 26, 126 of the flaps F are folded to provide the structure 14, 114 with an overall hourglass shape.

In regard to Claim 7, the lateral flaps F substantially extend the entire length of the article 10, 110 (Figs. 2 and 5).

In regard to Claim 8, the structure 14, 114 has a rectangular shape when in an unfolded state (Figs. 2 and 5; column 7, lines 35-37).

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In regard to Claim 9, cuts 30, 130 define the longitudinally opposing edges of the folded portions 26, 126 of flaps F (Figs. 2 and 4-6; column 7, lines 33-38).

In regard to Claim 10, as discussed for Claim 2, the folded portions 26, 126 result in the absorbent structure 14, 114 being two layers in the middle portion 24, 124 thick and the front 22, 122 portion is only one layer thick; therefore, the middle portion 24, 124 has a basis weight (thickness) at least about twice the basis weight of areas of the front portion 22, 122.

In regard to Claim 12, a basis weight in the middle portion 24, 124 that is at least 25% greater than that of the rear portion 20, 120 would mean that the structure 14, 114 is at least 1.25 times thicker in the middle portion 24, 124 than in the rear portion. As discussed for Claim 2, Fig. 6 shows that the folded portions 26, 126 of flaps F result in the absorbent structure 14, 114 being at least two layers thick in the middle portion 24, 124; and, the front 22, 122 portion of the absorbent structure 14, 114 is only one layer thick. Since two layers is 2 times thicker than one layer, the basis weight in the middle portion 24, 124 would be at least 25% greater than that of the rear portion 20, 120.

In regard to Claim 13, a basis weight in the middle portion 24, 124 that is at least 150% greater than that of the rear portion 20, 120 would mean that the structure 14, 114 is at least 2.5 times thicker in the middle portion 24, 124 than in the rear portion. As discussed for Claim 2, Fig. 4 shows that the folded portions 26, 126 of flaps F result in the absorbent structure 14, 114 being at least three layers thick in the middle portion 24, 124; and, the front 22, 122 portion of the absorbent structure 14, 114 is only one layer

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thick. Since three layers is 3 times thicker than one layer, the basis weight in the middle portion 24, 124 would be at least 150% greater than that of the rear portion 20, 120.

In regard to Claim 15, Mesek discloses that the absorbent structure 14, 114 is to be used in a diaper (abstract).

In regard to Claim 16, the absorbent structure 14, 114 may comprise pulp fibers and superabsorbent particles (column 8, lines 20-28; column 9, lines 46-54; column 10, lines 18-19).

In regard to Claim 19, the absorbent structure has been debulked and has a density of from about 0.1 g/cc to about 0.45 g/cc (column 8, lines 51-56). "Debulk" has been interpreted to be equivalent lowering or decreasing the density of a material.

In regard to Claim 21, Mesek discloses that the absorbent structure may contain little adhesive (column 8, line 24).

Allowable Subject Matter

7. Claims 4-6, 11, 14, and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

A search of the prior art of record fails to disclose any references, which taken alone or in combination, teach or fairly suggest an absorbent panel having middle openings, flaps folded over the central portion of the panel, two rear opening that are separated by a strip of narrow material. Although Mesek is considered to teach two

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opposing rear openings, they are not separated by a strip of material more narrow than the middle portion of the panel.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

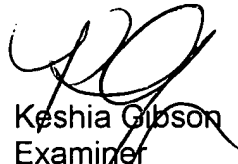
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keshia Gibson whose telephone number is (571) 272-7136. The examiner can normally be reached on M-F 8:30 a.m. - 6 p.m., out every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Keshia Gibson
Examiner
Art Unit 3761

klg 2/8/06

TATYANA ZALUKAEVA
PRIMARY EXAMINER

